

By the Committee on Banking and Insurance; and Senator Richter

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 559.5558, F.S.; providing a public-records exemption
4 for information held by the Office of Financial
5 Regulation pursuant to an investigation of consumer
6 collection agencies; providing for future repeal and
7 legislative review of the exemption under the Open
8 Government Sunset Review Act; providing a statement of
9 public necessity; providing a contingent effective
10 date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Section 559.5558, Florida Statutes, is created
15 to read:

16 559.5558 Public-records exemption.—

17 (1) DEFINITIONS.—As used in this section, the term
18 “personal financial information” means:

19 (a) The existence, nature, source, or amount of a
20 consumer’s personal income, expenses, and debt;

21 (b) Records of or related to a consumer’s financial
22 transactions of any kind; or

23 (c) The existence, identification, nature, or value of a
24 consumer’s assets, liabilities, or net worth.

25 (2) INVESTIGATIONS.—

26 (a) Except as otherwise provided in this section,
27 information held by the office pursuant to an investigation of a
28 violation of this part is confidential and exempt from s.
29 119.07(1) and s. 24(a), Art. I of the State Constitution.

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30 However, information made confidential and exempt pursuant to
31 this section may be disclosed by the office to a law enforcement
32 agency or another administrative agency in the performance of
33 its official duties and responsibilities.

34 (b) Information made confidential and exempt pursuant to
35 this section shall remain confidential and exempt until the
36 investigation is completed or ceases to be active unless
37 disclosure of the information would:

38 1. Jeopardize the integrity of another active
39 investigation;

40 2. Reveal the personal identifying information or personal
41 financial information of a consumer unless the consumer is also
42 the complainant. In the case of a complainant, the complainant's
43 personal identifying information is subject to disclosure after
44 the investigation is completed or ceases to be active; however,
45 the complainant's personal financial information remains
46 confidential and exempt;

47 3. Reveal the identity of a confidential source;

48 4. Reveal investigative techniques or procedures; or

49 5. Reveal trade secrets, as defined in s. 688.002.

50 (c) For purposes of this section, an investigation shall be
51 considered active if the investigation is proceeding with
52 reasonable dispatch and the office has a reasonable good faith
53 belief that the investigation may lead to the filing of an
54 administrative, civil, or criminal proceeding or the denial or
55 conditional grant of an application for registration or other
56 approval required under this part.

57 (3) REVIEW AND REPEAL.—This section is subject to the Open
58 Government Sunset Review Act in accordance with s. 119.15 and

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59 shall stand repealed on October 2, 2015, unless reviewed and
60 saved from repeal through reenactment by the Legislature.

61 Section 2. The Legislature finds that it is a public
62 necessity that information held by the office pursuant to an
63 investigation conducted under part VI of chapter 559, Florida
64 Statutes, be confidential and exempt from public-records
65 requirements for the following reasons:

66 (1) An investigation conducted by the Office of Financial
67 Regulation may lead to the filing of an administrative, civil,
68 or criminal proceeding or to the denial or conditional granting
69 of a registration. The premature release of such information
70 could frustrate or thwart the investigation and impair the
71 ability of the office to effectively and efficiently administer
72 part VI of chapter 559, Florida Statutes.

73 (2) Information held by the Office of Financial Regulation
74 which is provided to a law enforcement agency or another
75 administration agency for further investigation needs to remain
76 confidential and exempt until the investigation is completed or
77 ceases to be active. Release of this information before the
78 completion of that investigation would jeopardize the integrity
79 of the investigation and impair the ability of other agencies to
80 carry out their statutory duties.

81 (3) Investigations frequently involve the gathering of
82 sensitive personal information, including financial information,
83 concerning complainants and consumers. The office may not
84 otherwise have access to this sensitive personal information but
85 for the investigation. Because of the sensitive personal nature
86 of the information gathered, the disclosure of this information
87 to the public could cause unwarranted damage to the good name or

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88 reputation of the individuals, especially if information
89 associated with the individual is inaccurate. Furthermore,
90 access to such information could jeopardize the financial safety
91 of the individual who is the subject of that information by
92 placing the person at risk of becoming the object of identity
93 theft.

94 (4) Releasing information identifying a confidential source
95 could jeopardize both the integrity of a current and future
96 investigation as well as the safety of the confidential source.

97 (5) Revealing investigative techniques and procedures could
98 allow a person to hide or conceal violations of law that
99 otherwise would have been discovered during an investigation.

100 This exemption is necessary for the office, as well as law
101 enforcement and other administrative agencies, in order for such
102 agencies to effectively and efficiently carry out their
103 statutory duties, which would be significantly impaired without
104 this exemption.

105 (6) A trade secret derives independent economic value,
106 actual or potential, from not being generally known to, and not
107 readily ascertainable by, other persons who can obtain economic
108 value from its disclosure or use. Without an exemption for a
109 trade secret held by the office, that trade secret becomes a
110 public record when received and must be divulged upon request.
111 Divulging a trade secret under the public-records law would
112 destroy the value of that property, causing a financial loss to
113 the person or entity submitting the trade secret. Release of
114 that information would give business competitors an unfair
115 advantage and weaken the position of the person or entity
116 supplying the trade secret in the marketplace.

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117 Section 3. This act shall take effect on the same date that
118 SB 1702 or similar legislation takes effect if such legislation
119 is adopted in the same legislative session, or an extension
120 thereof, and becomes law.